

Florida Keys National Marine Sanctuary Advisory Council

April 8, 2003

Marathon Garden Club

FINAL MINUTES

Members Present

Fran Decker

Todd Firm

Richard Grathwohl

Debra Harrison

David Hawtof

Tony Iarocci

Don Kincaid

Nancy Klingener

Duncan Mathewson

Martin Moe

Ken Nedimyer

George Neugent

Anita Schwessinger

Deborah Shaw

Alternates Present

Greg DiDomenico

Jerry Lorenz

Jody Thomas

Call to Order

Chair Neugent called the meeting to order at 9:10 a.m.

In Memoriam

Chair Neugent asked the Council to remember the extraordinary contributions of the late Dagny Johnson and the late K. Wilkinson to the natural environment of the Florida Keys.

Approval of Minutes/Adoption of Agenda

The minutes of the February 17, 2003 meeting were adopted as presented. Two resolutions proposed by Ms. Klingener were added to the agenda which was adopted as modified.

Introductions

Mr. Causey requested of the Chair that the audience introduce themselves individually.

The following persons identified themselves: Chelsea Maxwell, The Nature Conservancy; Erica Feller, The Nature Conservancy; Brad Rosov, The Nature Conservancy; Russ Rector, Dolphin Freedom Foundation; Rick Trout, Marine Mammal Conservancy; Anne McCarthy, FKNMS, Key West; H.T. Pontin, Ramrod Key; Tyler Campbell; Ali Hudon, NOAA Fisheries; Cheva Heck, FKNMS, Key West; Alicia Stevenson, Coupon Bight Aquatic Preserve; Marsha Colbert, Biscayne Bay Aquatic Preserve; Douglas Gregory, Sea Grant Agent for Monroe County; Steve Werndli, FKNMS, Key Largo; Karla Mendez, FKNMS, Key West; Carolina Sullivan, FKNMS, Key West; Steve Davidson, GIS volunteer, The Nature Conservancy; Brad Fisher, National Wildlife Refuges; Johanna Polsenberg, NCOR, Miami; Buffy Turner, WWF; Alex Score, South Florida Ecosystem Education Project.

Report on Sunken Shrimp Vessel 'Done Deal' – Russell Reardon (FDEP)

Russell Reardon of the Damage Assessment and Restoration Program in the Lower Keys gave a PowerPoint presentation detailing the break-up and disbursement of the 64 foot wooden shrimp trawler 'Done Deal' in late December 2002 just outside Tortugas Ecological Reserve North and Tortugas National Park. This took place in a popular trawler anchorage called the Circle K. He reported on the collaborative efforts by Sanctuary staff, Pt. Monroe crew, National Park Service employees and their crane and barge subcontractors, as well as associates of Mel Fisher Maritime Museum, in locating and removing debris from the wreck. Work on the derelict vessel was made possible through funds from the Ecosystem Management Restoration Trust Fund as well as Monroe County's Derelict Vessel Program. He also showed video of the rescue efforts undertaken by Lower Keys staff in 55 feet of turbid water, against strong currents, to contain pollution hazards and prevent additional damage to resources.

Public Comment

Richard Grathwohl on behalf of the Marathon Guides Association reported on a two day occurrence involving recreational vessels in Great White Heron National Wildlife Refuge. The vessels were participating in time trials. Mr. Grathwohl expressed concern that this will set a precedent for unregistered events. Captain Horadam and Mr. Causey confirmed that the Coast Guard could not issue a permit for the event since it was not held in a navigable waterway. It was established that Fish and Wildlife Service manager Phil Frank observed throughout, as did law enforcement officers from FWC and FWS but they did not see any unsafe behavior.

Ms. Harrison moved that the Sanctuary staff, the Fish and Wildlife Service and the State of Florida work together to establish a mechanism by which this kind of activity should be prohibited as soon as possible. The motion was seconded by Dr. Shaw. Discussion concerned continuous disturbance to wildlife, the types of outboard racing vessels involved, origin of the vessels, noise levels and safety gear.

Mr. Causey observed that despite prior resistance to the idea, it now seems appropriate to add regulations to the Sanctuary management plan which will require special use permits for events such as power boat races on a site-by-site basis. Chair Neugent responded to concerns expressed by Ms. Harrison that this would appear to be removing people's rights, that there is now much wider, more broad-based support for this regulatory approach. The motion passed unanimously upon voice vote and it was agreed to defer further discussion of power boat racing to a later meeting.

H.T. Pontin commented that it is the first time that he has heard a motion in public comment time. He read the attached presentation concerning the right to boat, fish and swim protected by the Florida Constitution and the U.S. Constitution. He reviewed the issues of fishing licenses and the illegality of discrimination. Mr. Pontin distributed copies of the laws securing those rights including U.S. Code 18, Chapter 13, sec. 241 and 242. He observed that when fish have been over-fished, they always come back because when commercial fishermen cannot make a living, they stop fishing.

Robert Lingenfelter of the Marine Mammal Conservancy stated that the rehabilitation section of the Conservancy's Letter of Agreement with NOAA Fisheries has been suspended pending a study on the impact of rehabilitation of cetaceans on manatees. He expressed differences of opinion held by the Conservancy with NOAA Fisheries and the U.S. Fish and Wildlife Service and noted that in 15 years of conducting rehabilitation there has been no incident of cross-contamination of disease between cetaceans and manatees, which cohabit naturally in the wild.

Rick Trout gave a personal overview of the status of the stranding network in the Upper Keys. He expressed dissatisfaction with the suspension of Article 4 of the Marine Mammal Conservancy's LOA with NOAA Fisheries.

Russ Rector said that nothing that National Marine Fisheries had said they would do have they done for us. He warned that the stranding network is in danger of not running as a functioning network and that without the contribution of volunteers, marine mammal strandings in the Keys will involve "a front-end loader and a dumpster". He also commented on the need to act in a timely manner to enforce the Marine Mammal Protection Act to control commercial enterprises that involve dolphin feeding.

Tony Iarocci recommended that the last three speakers contact Dr. Roy Crabtree, the new Regional Director of NMFS, directly.

Mr. Causey recognized Laura Urian-Engleby, the new South East Region Stranding Coordinator for NMFS, and requested that she be added to the agenda at an appropriate point.

Jody Thomas of The Nature Conservancy requested that the Sanctuary Advisory Council join her in recognizing Congresswoman Ileana Ros-Lehtinen for her support on the \$10 million project to purchase wetlands in the Lower Keys through an item in the Transportation Bill before the United States Congress.

Ms. Klingener moved that the Council write a letter to Congresswoman Lehtinen thanking her for her support of the project that acquires critical habitat in the Lower Keys. The motion was seconded by Dr. Shaw and adopted unanimously upon voice vote.

Sanctuary Superintendent's Report – Billy Causey (FKNMS)

Mr. Causey gave the attached report.

Sanctuary Member of the Year Award

Mr. Causey, Chair Neugent and Lower Region Manager Fritz Wettstein presented Karla Mendez, Staff Assistant for the Lower Region Office, Key West with the Sanctuary Team Member of the Year Award. The award was for outstanding assistance to both Sanctuary staff and members of the public.

Florida Department of Environmental Protection Report – Fritz Wettstein

Mr. Wettstein reported on behalf of Kacky Andrews. He said that she has been involved with the Coral Reef Task Force which is scheduled to hold a workshop in late May in Florida to discuss management plans for protecting the reef system from Palm Beach County southwards. He discussed a DEP decision to disperse ammonia-enriched toxic waste from the bankrupt Piney Point phosphate plant into the Gulf of Mexico using empty coal barges returning to Louisiana. He said the decision was made reluctantly on the advice of a panel of scientific experts in order to avert a catastrophic spill into Tampa Bay. Questions from the Council concerned the continued practice of mining phosphates in the State. Chair Neugent invited Ms. Klingener to present her resolutions to the Council for consideration.

Everglades Forever Act Amendment Resolution

Ms. Klingener moved to pass the attached resolution, concerning the proposed alterations by the Florida Legislature to the 1994 Act that accommodate phosphorus levels in federally protected areas of the Everglades above the accepted 10 ppb and extend the deadline for cleanup from 2006 to 2026. Ms. Harrison seconded the motion. Discussion concerned the future viability of the Everglades Agricultural Area and impunity in the face of inaction with regard to cleanup. The motion passed unanimously upon voice vote.

Florida House Bill 1005 Resolution

Ms. Klingener moved to pass the attached resolution, concerning limitations on the State's ability to reserve water from the south Florida system for the natural environment. Dr. Lorenz seconded the motion which passed unanimously upon voice vote.

Florida Fish & Wildlife Conservation Commission Report – Carrollyn Cox (FMRI)

Ms. Cox reported on behalf of John Hunt. She distributed news releases of proposed rule changes on lobsters, on ballyhoo and on swordfish and bill fish. She said that provision for the legislation to establish a special two-day sport season license up to \$10 for recreational lobster harvest is still alive in the legislature and has passed both the House and Senate Natural Resource Committees.

Sanctuary Enforcement Report – Captain Jayson Horadam (FWC)

Capt. Horadam reported on an inter-agency meeting he attended in Washington, D.C. to consider the feasibility of cross-deputizing National Park Service rangers in conjunction with Florida State Park Service rangers. This will enable them to pursue groundings as civil and not criminal cases in accordance with federal policy. He said that three new recruits from the Academy in Tallahassee will be coming to the Sanctuary to fill the last vacant patrol posts. He mentioned Officer Dave Dupre's radio talk show on AM1300 every Tuesday between 8 and 9 a.m. Capt. Horadam extended an invitation to all Council members to join enforcement officers on patrol at their convenience.

Motion to Rescind

Richard Grathwohl moved to rescind his motion of February 18, 2003 in support of the Florida Guides Association. The motion was seconded by Mr. Iarocci and passed unanimously upon voice vote. He moved instead that the Council request the Sanctuary Superintendent send a letter to the Florida Fish and Wildlife Commission recommending a raise in the amount of fines for violations against the resource. The motion was seconded by Ms. Harrison and passed unanimously upon voice vote. Mr. Iarocci noted the importance of fines as a deterrent and particularly commended enforcement officers for their diligence in the Tortugas Ecological Reserve.

Western Sambo Ecological Reserve Sentinel Fisheries – Douglas Gregory (Sea Grant Extension Service)

Mr. Gregory gave the attached PowerPoint presentation on a four-year project involving commercial fishermen monitoring lobster in Sanctuary reserves. The project began in 1998 after the reserves had been implemented. Results suggest that although overall size and abundance of lobsters is greater in the reserves than outside, there is no consistent trend to indicate that spillover is taking place. He announced a scientific workshop on lobsters, sponsored by Sea Grant, to be held at Holiday Inn Beachside, Key West all day on June 6. Upon questioning, Mr. Gregory clarified that it is relative and not absolute abundance which is important, and that the apparent declining trends taking place both within and outside the reserves for this time period are weather related and not a function of the reserves. These trends are reflected in the commercial fishery.

Do Marine Reserves in the Florida Keys National Marine Sanctuary Protect Spiny Lobster? – Carrollyn Cox (FMRI)

Ms. Cox gave the attached PowerPoint presentation on a six-year diving survey on lobsters in different protected areas within the Sanctuary covering a wide range of habitats. Results indicate that carapace length of the largest lobsters is increasing in some but not all Sanctuary Preservation Areas (SPAs) and some of the less intuitive data may be a function of illegal fishing in the SPAs. Size of the SPA and length of time protected from fishing effort do not necessarily correlate with size and abundance of legal sized lobsters, which are greatest within Western Sambo Ecological Reserve. Discussion concerned location of SPAs and future research involving tagging lobsters to observe movements out of the SPAs, home ranges and habitat preferences. Dr. Keller observed that the relative abundance index for Western Sambo indicates a 20-fold increase in numbers on the fore reef inside the reserve compared to outside, which is consistent with comparable data from reef fin fishes. Mr. Causey pointed out that SPAs were not designed as reserves and that a difference can be seen between the SPAs and the ecological reserves.

Marine Mammal Viewing and Commercial Tourism – Sheri Sullenger (Florida Keys Wild Dolphin Alliance)

Ms. Sullenger gave a PowerPoint presentation on the need for a management plan for commercial marine mammal tourism in Key West in the light of burgeoning operations. She detailed the recommendations agreed upon by an alliance of owner-operators interested in regulating the industry and requested Sanctuary assistance. Discussion

followed concerning harassment, limited entry programs and lack of compliance with the Marine Mammal Protection Act. Mr. Causey said that the Sanctuary will address the issue in the revision of its management plan and will consult with National Marine Fisheries Service on how best to proceed.

National Marine Fisheries Service Guidelines on Wild Marine Mammal Viewing – Ali Hudon (Outreach Coordinator, NOAA Fisheries)

Ms. Hudon clarified the legal definition of the term “harassment” under the Marine Mammal Protection Act and described NOAA guidelines for viewing marine mammals and regulatory changes that are under consideration. She said that her office is interested in pursuing the special use permit opportunity for dolphin viewing in the Key West area and in working with the Florida Keys Wild Dolphin Alliance. She mentioned a program called Dolphin Awareness Tour Operator Workshop to be run by NOAA fisheries in Florida to help operators incorporate some more responsible practices into their businesses. Discussion followed concerning live dolphin trade, monofilament recycling and the type of licenses required to run a tour operation.

South East Region Stranding Network Coordinator – Laura Engleby (NMFS)

Ms. Engleby clarified that under Section 7 of the Endangered Species Act NOAA has a statutory requirement to consult with National Fish and Wildlife Service if there is any potential impact on manatees from natural pens/lagoon rehabilitation of cetaceans. Dr. Hogarth of NOAA Fisheries recently sent a letter to all persons involved in the Florida Keys establishing a temporary suspension of sea pen/natural lagoon rehabilitation while this process takes place. Alternative strategies are under consideration with the welfare of any stranded animals a top priority. Ms. Engleby said that an inventory will be taken by NOAA Fisheries and the Fish & Wildlife Service in the coming weeks of potential natural rehabilitation sites in the Florida Keys.

Adjourned

Submitted by

Fiona Wilmot